

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

MARCUS GORDON, M.D.

Plaintiff,

v.

9 BRANCH STREET, L.L.C., et al.,

Defendants.

CIVIL ACTION NO. 05-11372-MEL

**JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(D)  
WITH PROPOSED PRE-TRIAL SCHEDULE**

NOW COME the parties to the instant litigation, by and through their respective counsel of record, and respectfully submit this joint statement pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule 16.1(D), and the July 14, 2005 Notice of Scheduling Conference. Attorneys Sarah Wunsch, R. Alan Fryer and Dorothy M. Bickford, counsel for the plaintiff Marcus Gordon, M.D., and Attorneys Donna-Marie Cote and Robert J. Consavage, counsel for the defendants 9 Branch Street, L.L.C., Brooks C-1 Control Corporation, Harold J. Brooks and Joseph Friedman, conferred by telephone on August 19, 2005 to develop the following Discovery Plan and to discuss the issues set forth in Local Rule 16.1(B) and F. R. Civ. P. Rule 26(f).

**PROPOSED PRE-TRIAL SCHEDULE**

**I. Joint Discovery Plan**

The Parties jointly propose to the Court the following Discovery Plan:

A. Automatic disclosures. The plaintiff has provided the required disclosures. The defendants provide the required disclosures by August 31, 2005.

B. Written discovery to be conducted as follows:

1. Initial written discovery requests served by November 30, 2005.
2. All responses to initial written discovery requests served, and all documents produced, within thirty (30) days after service or by December 15, 2005, whichever is earlier, unless otherwise agreed to in writing by the requesting party.
3. Any follow-up written discovery requests served by March 1, 2006.
4. All responses to any follow-up written discovery requests served, and all documents produced, by April 15, 2006, unless otherwise agreed to in writing by the requesting party.

C. Depositions of fact witnesses to be completed by May 31, 2006.

D. Expert witnesses to be identified and all other information required under Fed. R. Civ. P. 26(a)(2)(B) to be provided by July 15, 2006.

E. Expert witness depositions to be completed by September 15, 2006.

## **II. Proposed Schedule for Filing Motions**

A. Amendment of Pleadings. Any motion to amend the pleadings, to join additional parties, or to file a third-party complaint shall be filed on or before April 30, 2006.

B. Discovery. All Rule 37 motions relating to initial written discovery requests and responses filed by January 15, 2006, unless the requesting party has granted an extension pursuant to paragraph I.B.2, supra. Where such an extension has been granted, the date by which the requesting party may file a Rule 37 motion is automatically extended by the same number of days as the extension agreed to pursuant to sub-paragraph I.B.2.

All Rule 37 motions relating to any follow-up written discovery requests and responses filed by April 15, 2006, unless the requesting party has granted an extension pursuant to sub-paragraph I.B.4, supra. Where such an extension has been granted, the date by which the

requesting party may file a Rule 37 motion is automatically extended by the same number of days as the extension agreed to pursuant to sub-paragraph I.B.4.

C. Dispositive Motions. Plaintiff prefers that all motions for judgment on the pleadings be filed by October 31, 2005, with all oppositions thereto filed by November 30, 2005; Defendants prefer that all motions for judgment on the pleadings be filed by November 30, 2005, with all oppositions thereto filed by December 30, 2005

All motions for summary judgment shall be filed by October 30, 2006; all oppositions thereto shall be filed by November 30, 2006, unless otherwise agreed to in writing by the moving party.

### **Certifications**

The certification by the plaintiff and his counsel required under Local Rule 16.1 is attached hereto. The defendants' certification will be filed separately.

MARCUS GORDON, M.D.

By his attorneys,

/s/ R. Alan Fryer  
R. Alan Fryer (BBO# 180830)  
Dorothy M. Bickford (BBO# 566380)  
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and  
Sarah R. Wunsch (BBO#548767)  
ACLU of Massachusetts  
211 Congress Street, 3rd Floor  
Boston, MA 02110  
(617) 482-3170

9 BRANCH STREET, L.L.C.,  
BROOKS C-1 CONTROL  
CORPORATION,  
HAROLD J. BROOKS and  
JOSEPH FRIEDMAN

By their attorneys,

/s/ Donna-Marie Cote (by R. Alan Fryer)  
/s/ Robert J. Consavage (by R. Alan Fryer)  
Paul R. Kfoury, Sr., (BBO# 270560)  
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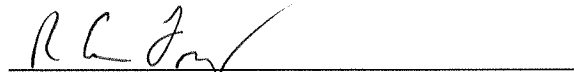
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**CERTIFICATION BY PLAINTIFF AND HIS COUNSEL  
PURSUANT TO LOCAL RULE 16.1(D)**

The plaintiff, Marcus Gordon, M.D., and his counsel hereby certify that they have conferred in accordance with the requirements of Local Rule 16.1(d)(3).



Marcus Gordon, M.D., Plaintiff



R. Alan Fryer, Co-Counsel for Plaintiff